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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,815	03/31/2000	Larry Phillips	MATP-587US	1591

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RATNERPRESTIA
P O BOX 980
VALLEY FORGE, PA 19482-0980

EXAMINER	
NGUYEN, HUY THANH	
ART UNIT	**PAPER NUMBER**
2616	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/539,815	PHILLIPS ET AL.	
	Examiner	Art Unit	
	HUY T. NGUYEN	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,4,5 and 7-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-5 and 7-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1,3-5,7-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The original specification does not describe a first number of retries of storing audio data and video data that are being recited in claims 1 and 5.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1,3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Fujinami (6,718,19) and Tamura (5,323,67).

Regarding claims 1 and 5 Nakamura discloses an apparatus (Figs. 25 and 26 and a method for storing video and audio data which leave been compressed according to a standard specified by the Moving Pictures Experts Group (MPEG), the method comprising the steps of:

formatting the video and audio data into respective program elementary stream (PES) packets (column 27, lines 27 20-35, column 28, lines 17-25); recording the video and audio PES packets on a disk (column 29, lines 1-5); retrieving the video and audio PES packets from the disk (column 29, lines 40-60, Figs. 25 and 26);

storing the retrieved audio and video PES packets into respective video and audio buffers (2600 and 2800) Fig. 26); and

providing the audio and video PES packets from the respective audio and video buffers to an MPEG decoder (3081 and 3200) (Fig. 26, columns 31 and 32).

Nakamura fails to specifically teaches that the audio and video packet stored in the respective audio and video buffers represent respectively different amount of time.

Fujinami teaches an apparatus for decoding the reproduced audio data and video data from a medium , the apparatus comprising an audio buffer and a video buffer for storing the audio data and video data , wherein the audio and video data packets

stored in the respective audio and video buffers represent respectively different amount of time (Figs. 5, 7, column 5, lines 10-35).

It would have bee obvious to one of ordinary skill in the art to modify Nakamura with Fujinami by provide a means for storing the audio packet and video packet in the audio buffer and video buffer with different respective amount of time for further ensuring seamless reproduction the data packets .

Further for claims 1 and 5, Nakamura fails to teaches storing audio PES packets representing a sufficient amount of audio information provide the MPEG decoder with data during an interval in which no data is being stored into the buffer due to a soft error on the disk.

Tamura teaches a reproducing apparatus having a control means for controlling a memory means for storing encoded audio data representing a sufficient amount of audio information provide to a decoder with data during an interval in which no data is being stored into the buffer due to a soft error on the disk (column 1, lines 15 – 34).

It would have been obvious to one of ordinary skill in the at to modify Nakamura with Tamura by using an audio memory means as taught by Tamura as the audio buffer of Nakamura in order to preventing interruption of the audio information provided to the MPEG decoder.

Regarding claim 3, Nakamura further teaches the MPEG decoder Includes an internal clock signal and the method further includes the step of synchronizing the internal clock signal to the audio packets provided to the audio buffer (column 31, lines 22-28 and column 32, lines 13-20).

Applicant agues that Nakamura does not teach that PES video are recorded separately from PES audio. In response the examiner disagrees . It is submitted that Nakamura teaches the video and audio are formed as separate PES . Each video PES video comprising video data and header containing time information relating to video data used for decoding the corresponding video data of the packet and each audio PES comprising audio data and header containing time information relating to the audio data used for decoding the corresponding audio data of the packet and each audio packet is separate from video packet. It is clear that Nakamura teaches video packet elementary is separate from the audio packet elementary

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Fujinami (6,718,119) and Tamura as applied to claim 6 above, and further in view of Fujita (5,930,450).

Regarding claim 7, Nakamura fails to specifically teach that the audio buffer memory has an amount of memory sufficient to hold encoded audio data representing approximately ten seconds of audio output.

Fujita teaches a reproducing apparatus having a buffer memory has a capacity of storing an amount of audio data representing approximately ten seconds of audio output (column 21, lines 15-25).

It would have been obvious to one of ordinary skill in the art t modify Nakamura with Fujita by using a audio buffer memory as taught by Fujita as an alternative to the

audio buffer of Nakamura for storing the audio data thereby increasing the storage of the amount of the audio data needed to be processed .

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N

HUY NGUYEN
PRIMARY EXAMINER